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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/642,444	08/15/2003	Ajai Sawhney	9041	1592
7590	05/22/2006		EXAMINER	
Mark E. Ogram 7454 E. Broadway, Ste. 203 Tucson, AZ 85710			GOTTSCHALK, MARTIN A	
			ART UNIT	PAPER NUMBER
			3626	

DATE MAILED: 05/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/642,444

Applicant(s)

SAWHNEY ET AL.

Examiner

Martin A. Gottschalk

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 15 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

1. Claims 1-20 have been examined.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 8, 9, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Surwit et al (US Pat# 6,024,699, hereinafter Surwit).

- A. As per claim 1, Surwit discloses a method of providing medical treatment comprising the steps of:

a) receiving a patient in an emergency situation (Surwit: Fig 3, item 100; col 2, lns 56-63. The Examiner considers analyzing patient data from a monitoring system to be a form of receiving a patient.);

b) diagnosing said patient (Surwit: Fig 5, item 200, reads on “Analyze Data To Identify Medical Conditions For Each Patient”; Fig 6; col 12, lns 60-67);

c) digitally storing all aspects of the diagnosis on a computer (Surwit: col 3, Ins 25-39; col 5, Ins 32-45); and,

d) providing treatment based upon said diagnosis for a period not to exceed twenty-four hours (Surwit: Fig. 3, items 500-700; col 3, Ins 1-5.

See also col 12, Ins 42-55 and note that the system can be programmed to transmit at more frequent intervals in emergency situations. The Examiner considers these periods to be less than 24 hours. In response to this feedback, a case manager can adjust the patient's treatment regimen, see col 13, Ins 48-62).

B. As per claim 2, Surwit discloses the method of providing medical treatment according to claim 1, wherein the step of diagnosing said patient includes the steps of:

a) taking a medical history of the patient (Surwit: col 7, Ins 64-66. The Examiner considers a patient providing information on a regular basis to the system for medical examination to be a form of taking a medical history.);

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b) conducting a physical examination of the patient (Surwit: col 12, lns 60-64. The Examiner considers analyzing patient data to be a form of physical examination.); and,

c) performing tests on the patient (Surwit: col 7, lns 42-55, reads on "Blood...may be read...").

C. Claims 8, 9, and 15 correspond to claims 1 and 2 above and are rejected for the same reasons. The particular correspondence of the claims is as follows:

Claim 1 corresponds to claims 8 and 15 (steps a, c, and d).

Claim 2 corresponds to claims 9 and 15 (step b).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

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2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 3-6, 10-13, and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Surwit as applied to claim 2 above, and further in view of Wojcik et al (US Pat# 4,680,628, hereinafter Wojcik).

A. As per claims 3 and 4, Surwit fails to disclose the method of providing medical treatment according to claim 2, wherein the step of performing tests on the patient includes the step of

(claim 3) generating selected digital imaging of the patient.

(claim 4) wherein the step of generating digital imaging of the patient includes the step of

creating a digital x-ray of a portion of the patient.

However, these features are well known in the art as evidenced by the teachings of Wojcik who teaches a method and apparatus for digital x-ray imaging (Wojcik: col 1, lns 5-15; col 4, lns 10-20).

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It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teachings of Wojcik within the method of Surwit with the motivation of providing a physician the ability to view the x-ray in real-time (such as in an emergency situation) and to store the images for re-study in a way to avoid the inconveniences associated with film images (Wojcik: col 1, ln 67 to col 2, ln 10).

B. As per claim 5, Surwit discloses the method of providing medical treatment according to claim 4, further including the step of

making the diagnosis of the patient digitally accessible to a remote care-facility (Surwit: (Surwit: col 19, ln 65 to col 20, ln 28; Fig 12, item 51. The Examiner considers the location of the disclosed physician to be a form of remote care-facility).

C. As per claim 6, Surwit discloses the method of providing medical treatment according to claim 5, further including:

a) automatically and electronically notifying a primary care physician of the patient (Surwit: col 20, lns 20-23); and,

b) digitally providing access to the diagnosis to the primary care physician (Surwit: col 20, lns 15-17, reads on "Contacts with experts may...be

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accompanied by...data...from the PAC server; note also col 20, lns 17-21

"Expert input...directed to others with access to the system).

D. As per claims 10-13, and 16-19, they correspond to claims 3-6 and are rejected for the same reasons as provided above. The particular correspondence of the claims is as follows:

Claim 3 corresponds to claims 10 and 17.

Claim 4 corresponds to claims 11 and 18.

Claim 5 corresponds to claims 13 and 19.

Claim 6 corresponds to claims 12 and 16.

7. Claims 7, 14, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Surwit in view of Wojcik as applied to claim 5 above, and further in view of Jones et al (US Pat# 6,117,073, hereinafter Jones).

A. As per claim 7, the combined teachings of Surwit and Wojcik fail to disclose the method of providing medical treatment according to claim 5, further including the step of

transporting the patient to the remote care-facility

However, this feature is well known in the art as evidenced by the teachings of Jones. Jones discloses an emergency medical transport system to



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provide transportation to a care-facility and to assist with diagnosis and treatment (Jones: Fig 1; col 2, lns 5-42; col 11, lns 58-63).

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the disclosure of Jones with the combined teachings Surwit and Wojcik with the motivation of integrating the transport process of an emergency medical patient with the diagnosis and treatment of the patient (Jones: col 1, ln 65 to col 2, ln 3).

B. As per claims 14 and 20, they correspond to claim 7 and are rejected for the same reasons as provided above.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not applied prior art disclose systems for integrating and managing the various aspects medical services performed remotely (US Pat# 5,301,105; 6,283,761).

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Martin A. Gottschalk whose telephone number is (571) 272-7030. The examiner can normally be reached on Mon - Fri 8:30 - 5.

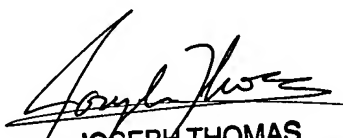
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571) 272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MG  
12/08/2005



JOSEPH THOMAS  
SUPERVISORY PATENT EXAMINER